

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOVON MCGLOUN,

Petitioner,

-v-

9:22-CV-1000

MARK PASSAGE,

Respondent.

APPEARANCES:

OF COUNSEL:

JOVON MCGLOUN

Petitioner, Pro Se

18-B-0766

Upstate Correctional Facility

P.O. Box 2001

Malone, NY 12953

HON. LETITIA JAMES

New York State Attorney General

Attorneys for Respondent

28 Liberty Street, 14th Floor

New York, NY 10005

JALINA J. HUDSON, ESQ.

DAVID N. HURD

United States District Judge

ORDER ON REPORT & RECOMMENDATION

On September 19, 2022, *pro se* petitioner (“petitioner”), an inmate in the custody of the New York State Department of Corrections and Community Supervision (“DOCCS”), filed this habeas corpus action pursuant to 28 U.S.C.

§ 2254 in the U.S. District Court for the Western District of New York. Dkt. No. 1. Petitioner also moved for leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 2.

However, because petitioner was incarcerated at Mid-State Correctional Facility at the time of the filing, U.S. District Judge David G. Larimer, sitting in the Western District of New York, ordered the petition transferred to this judicial district. Dkt. Nos. 3, 4.

Thereafter, U.S. Magistrate Judge Andrew T. Baxter granted petitioner’s IFP Application, Dkt. No. 5, ordered respondent to file and serve an answer to the petition, Dkt. No. 6, and, after finally receiving all of the necessary documents from respondent, Dkt. Nos. 16–18, gave petitioner an opportunity to file a reply, Dkt. No. 20. But petitioner did not do so. *See id.* The case was later reassigned to U.S. Magistrate Judge Mitchell J. Katz for the issuance of a Report & Recommendation (“R&R”). Dkt. No. 21.

On April 12, 2024, Judge Katz advised by R&R that the petition be denied and dismissed. Dkt. No. 24. Neither party has filed objections, and the time period in which to do so has expired. *See id.* Thus, upon review for clear error, the R&R is accepted and will be adopted. *See* FED R. CIV. P. 72(b).

Therefore, it is

ORDERED that

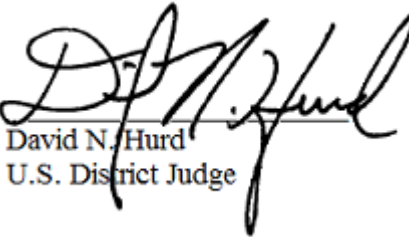
1. The Report & Recommendation is ACCEPTED;

2. The petition is DENIED and DISMISSED; and
3. No Certificate of Appealability shall be issued.

The Clerk of the Court is directed to terminate the pending motion and close the file.

IT IS SO ORDERED.

Dated: May 2, 2024
Utica, New York.



David N. Hurd
U.S. District Judge